

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P.O. BOX 932328

SACRAMENTO, CA 94232-3280

**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (the department) proposes to adopt Sections 152.00, 190.03, 268.02, 274.00, 280.12, 285.06, 292.06, and 340.13, and amend Sections 330.08 and 345.65, in Chapter 1, Division 1, Title 13, California Code of Regulations. The proposed regulations will establish surety bond requirements for motor vehicles and vessels without proper evidence of ownership documents, and surety bond requirements for occupational licenses issued by the department.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on *May 23, 2005*, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code sections 4157, 4307, 9923, 11102, 11202, 11301, 11401, 11402, 11612, 11710 and 11710.1, and section 995.010 et seq. of the Code of Civil Procedure.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The department has reviewed all of its surety bonds and has established standard language for the bond forms and regulations associated with each bond based on the authorizing and governing statute(s). The sections identified below in Title 13, California Code of Regulations, will identify the bond forms and conditions for bonds under the requirements of the statutes.

Vehicle Code section 4157 allows the department to accept a bond in the absence of required supporting evidence of ownership. Vehicle Code section 4307 authorizes the department to accept a bond when the documents are not sufficient to reasonably satisfy the department of the ownership of a vehicle and to identify any liens upon the vehicle. The surety bond for a vehicle without supporting documentation has been submitted to the Attorney General for approval. Section 152.00 is proposed in Title 13, California Code of Regulations, to specify the bond under the requirements of the authorizing and governing statutes.

Vehicle Code section 9923 authorizes the department to accept a surety bond in the absence of required evidence of ownership. The surety bond for an undocumented vessel has been submitted to the Attorney General for approval. Section 190.03 is proposed in Title 13, California Code of Regulations, to specify the bond under the requirements of the authorizing and governing statutes.

Vehicle Code section 11710 requires a dealer to submit a surety bond before the issuance or renewal of a dealer occupational license. The surety bond for the issuance or renewal of a dealer occupational license has been submitted to the Attorney General for approval. Section 268.02 in Title 13, California Code of Regulations, will identify the bond form and conditions for dealers requiring a \$50,000 surety bond.

Legislation was recently enacted (AB 2848, Ch. 836, Stats. 2004) to require an occupational license for dealers who sell all-terrain vehicles and to require a surety bond for each licensee in the amount of \$10,000, effective January 1, 2005. The surety bond for occupational license programs with a \$10,000 bond requirement has been revised to include the new category of all-terrain vehicle dealers. The surety bond for Motorcycle Dealer, Motorcycle Lessor-Retailer, All-Terrain Vehicle Dealer, or Wholesale-Only Dealer has been submitted to the Attorney General for approval. Section 274.00 in Title 13, California Code of Regulations, will identify the bond form and conditions for dealers requiring a \$10,000 surety bond.

Vehicle Code section 11612 requires a lessor-retailer to file a surety bond prior to the issuance or renewal of a lessor-retailer occupational license. The surety bond for issuance or renewal of a lessor-retailer occupational license has been submitted to the Attorney General for approval. Section 280.12 in Title 13, California Code of Regulations, will identify the bond form and conditions for lessor-retailers.

Vehicle Code section 11710 requires a surety bond to be submitted before the issuance or renewal of a remanufacturer occupational license. The surety bond for issuance or renewal of a remanufacturer occupational bond has been submitted to the Attorney General for approval. Section 285.06 in Title 13, California Code of Regulations, will identify the bond form and conditions for remanufacturers.

Vehicle Code section 11301 requires a vehicle verifier to submit a surety bond before the issuance or renewal of a vehicle verifier occupational license. The surety bond for issuance or renewal of a vehicle verifier occupational license has been submitted to the Attorney General for approval. Section 292.06 in Title 13, California Code of Regulations, will identify the bond form and conditions for vehicle verifiers.

Vehicle Code section 11402 requires an occupational licensee to provide a surety bond to operate as a vehicle registration service. Legislation recently enacted (AB 2606, Ch. 430, Stats. 2004) amended section 11402 to increase the surety bond amount to \$25,000 effective January 1, 2005. The surety bond for an occupational licensee to operate as a vehicle registration service has been submitted to the Attorney General for approval. Section 330.08 in Article 4.5, Title 13, California Code of Regulations, is proposed to be amended to reflect the increased monetary amount.

Vehicle Code section 11102 requires a driving school owner or all-terrain vehicle safety training organization principal to file a surety bond prior to the issuance or renewal of an occupational license. The surety bond for issuance or renewal of a driving school owner or all-terrain vehicle safety training organization principal occupational licensee has been submitted to the Attorney General for approval. Section 340.13 in Title 13, California Code of Regulations, will identify the bond form and conditions for the driving school owner or all-terrain vehicle safety training organization principal occupational licensees.

Vehicle Code section 11202 requires a traffic violator school owner to file a surety bond with the department before an occupational license is issued or renewed. The surety bond for issuance or renewal of a traffic violator school owner occupational license has been submitted to the Attorney General for approval. Section 345.65 in Title 13, California Code of Regulations, is proposed to be amended to identify the updated bond form and conditions for bonds under the Vehicle Code and the Code of Civil Procedure.

DOCUMENTS INCORPORATED BY REFERENCE

- Appointment of Director as Agent for Service of Process (form ADM 9050 (NEW 5/2004) WWW)
- Dealer Surety Bond (form OL 25 (REV. 11/2004))
- Remanufacturer Surety Bond (form OL 25A (REV. 11/2004))
- Surety Bond of Motorcycle Dealer, Motorcycle Lessor-Retailer, All-Terrain Vehicle Dealer, or Wholesale-Only Dealer (Less Than 25 Vehicles Per Year) (form OL 25B (REV. 11/2004))
- Lessor-Retailer Surety Bond (form OL 25C (REV. 11/2004))
- Vehicle Verifier Surety Bond (form OL 26 (REV. 11/2004))
- Driving School Owner or All-Terrain Vehicle Safety Training Organization Principal Sure Bond (form OL 218 (REV. 11/2004))
- Registration Service Surety Bond (form OL 605 (REV. 11/2004))
- Traffic Violator School Owner Surety Bond (form OL 704 (REV. 11/2004))
- Motor Vehicle Ownership Surety Bond (form REG 5057 (NEW 12/2004))
- Undocumented Vessel Surety Bond (form REG 5058 NEW 12/2004))

These forms are not published in Title 13 because it would be impractical and cumbersome to publish the forms in the department's regulations. The forms have been submitted to the Attorney General for publication in the California Regulatory Notice Register and in Title 11, California Code of Regulations. The bond forms are presently available from the department and may be found on the department's website at www.dmv.ca.gov.

FISCAL IMPACT STATEMENT

- Cost Or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations implement existing and new statutes by identifying the department's surety bond forms and the bond conditions.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulatory action will neither create nor eliminate jobs or businesses in the state of California, will not result in the elimination of existing businesses, and will not reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action may affect small businesses because the proposed regulatory action implements existing and new statutes by identifying the department's surety bond forms and the bond conditions.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Christie Patrick, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-5567, or cpatrick@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or e-mail dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Notice of Proposed Regulatory Action, Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

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